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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,521	12/05/2003	Richard Floyd Percy	16638-US	2404

7590 03/11/2005

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EXAMINER

MAMMEN, NATHAN SCOTT

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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	Application No. 10/729,521	Applicant(s) PERCY ET AL.	
	Examiner Nathan S Mammen	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17-19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-13, 15, 17, 18, 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 8, 9 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 18, 19, 21, 22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,970,852 to Check et al.

The Check '852 patent discloses an apparatus comprising a reinforced one-piece molded plastic grass catcher (40) for a reel-type mower. The catcher is a plastic box-like structure, see col. 6, lines 28-32, and has an opening with a lower lip (56) that is above some portions of the lower wall. The catcher further comprises an integral retaining structure (142) and a reinforcing member (42) attached to the catcher. Only the retaining structure (142) holds the reinforcing member (42) in place. The other diameter of the reinforcing member (42) fits within the internal diameter of the retaining structure.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 10-13, 15, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,970,852 to Check et al. in view of U.S. Patent No. 6,637,081 to Kulkaski.

The Check '852 patent discloses an apparatus comprising a grass mower having a reel cutting unit (26) and a grass catcher (40) positioned adjacent and forward of the cutting unit. The grass catcher is a one-piece molded plastic box-like structure. See col. 6, lines 28-32. The catcher has upper, lower, and side panels and an opening between the upper and lower panels. The catcher has a retaining structure (142) integrally formed with the lower panel and adjacent the opening. The catcher has an elevated lower lip (56). What the Check '852 patent does not disclose is that the apparatus comprises a reinforcing member. The Kulkaski '081 patent teaches that it is known in the lawn mower art to provide grass catcher with a reinforcing member (5) firmly gripped by and restrained against movement by a catcher retaining structure (8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of the Check '852 patent with the reinforcing member for the grass catcher as taught by the Kulkaski '081 patent in order to provide additional strength for the retaining structure.

Regarding claims 2-7, 10, 11, 13, 15, 17, 19, 21, 22: The reinforcing member taught by the Kulkaski '081 patent is generally cylindrical in shape. While the Check '852 appears to only disclose two retaining structures (142), providing three or more retaining structures would have been an obvious duplication of parts. The retaining structures (142) are channels/passages and are offset. The reinforcing member taught by the Kulkaski '081 patent is exposed. The grass mower of the Check '852 patent is a reel-type mower. The particular dimensions of the reinforcing member would be obvious.

Allowable Subject Matter

5. Claims 8-9, 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments with respect to claims 1-15, 17-19, 21, 22 have been considered but are moot in view of the new ground(s) of rejection.

As described above, the Check '852 patent discloses a molded plastic box-like grass catcher for a reel mower.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (703) 306-5959.

The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (703) 308-3870. The fax number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

NSM
3/7/05

Nathan S. Mammen